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Campbell, John

Intolerance

Iowa City

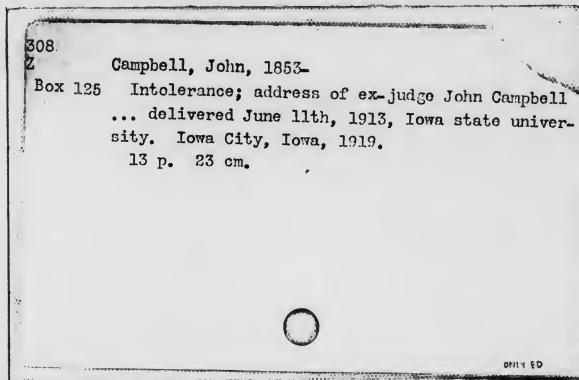
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INTOLERANCE

ADDRESS OF
EX-JUDGE JOHN CAMPBELL

CHIEF JUSTICE SUPREME COURT
OF COLORADO

DELIVERED JUNE 11TH, 1913
IOWA STATE UNIVERSITY

IOWA CITY, IOWA
1919

INTOLERANCE

A title is but a sustaining wire on which to hang the threads of discourse. The one selected here may not be scientifically precise; but it is about as appropriate as any one of half a dozen others which might serve as a support for what I have to say.

Under various systems, in their slow, but constant progress in developing stable government, the Anglo-Saxon people have wrestled with, and solved, many mighty problems of international and national policy, and have invented and utilized many methods for improving and elevating their domestic and private relations. Some of these policies have been settled, and some of these methods have worked, to their own satisfaction, and been accepted by the civilized world as finished products of constructive statesmanship. But the genius of our virile race has not yet, even for itself, and with absolute certainty, correctly adjusted the long-standing, abstract dispute as to the relative merits of conservatism and radicalism. Its perennial agitation is one of the evidences of its enduring charm, if not of its inspiring freshness. It will probably be with us so long as the torch of Liberty continues to enlighten the world. Though to the school boy its disposition is attended with no serious difficulty, to the experienced man of affairs its complexities grow with the expansion of his intellect. It is not my present purpose to renew the academic discussion, as it would be just about as fit and entertaining on this occasion as an essay on the pictorial art of the Comanche, and less edifying than the many abortive attempts to prove that perpetual motion is the handmaid of modern industry. My reference to the subject now may seem foreign to the matter in hand, yet, since it furnishes the inspiration for my theme, as may later be perceived, I wish, at the outset, to salute my ancient friend, acknowledge my indebtedness, and pay a grateful tribute to him.

The words "radical" and "conservative" need not be defined. The contented mental attitude of the one, satisfied with estab-

lished order and existing institutions, and the restless mood and desire for change of the other, represent the types of mind into which society at large is divided. Did you ever stop to think that these terms are, after all, only relative; that no man is altogether radical, or completely conservative and that the standards supposed to be represented by them are not rigid, but elastic? While the general trend of one's mind may be conservative, he himself may be intensely radical along certain lines. If I may so use human language, this paradox may be natural; it may be the result of environment, or superinduced by self-interest or arise from wider experience, or be grounded on accidental location. The folly, as well as the barrenness, of the fierce dispute as to the relative values of these two models of character, as well as the inconsistent position and intolerant attitude of the opposing interests, are shown in the heated controversy between the different sections of our nation over what is now the most engrossing current question of national policy: the conservation of our natural resources. This idea of conserving for posterity our natural resources is of comparatively recent origin with us. It has often been urged by publicists during our short history as a nation; but, as a practical question, it has only recently leaped into prominence as the result of constant agitation in the public press, from the appalling loss of human life and destruction of property caused by the overflow of rivers in times of freshets, to a sudden awakening of a heedless public to the rapid destruction of our primeval forests and to the alarming exhaustion of the fertility of the soil by wasteful methods of agriculture.

The south is traditionally conservative. Whether this was due originally to the existence of slavery in the southern states and their fixed purpose to perpetuate and extend the system, is not germane to the object of this paper. The South has always planted itself on the solid rock of strict construction of the federal constitution, and has consistently resisted all attempts to introduce a broad and liberal interpretation of the provisions of that instrument, and has insisted that the rights of the state are paramount, and those of the nation subordinate, in all cases, unless otherwise expressly provided in the organic act. The East and Middle West generally felicitate themselves on their conservatism and contented spirit. Their lands, particularly in the

East, with some noted exceptions, have long since been denuded of the original growth of timber, and the denuded tracts devoted to the use of agriculture. While these sections have not adhered to the extreme doctrine of states' rights, they have always asserted, and now maintain, the claim that they are the absolute owners of all the natural resources within their own borders, with the correlative right of determining their use, except only in the case of navigable rivers, which federal control of interstate commerce requires shall be vested in the congress. Though some wise men doubt it, indeed some of them emphatically deny it, and assert that thickets which grow up in the place of felled timber, are just as effective, still the general belief is that original, or primeval forests along the margin and in the water shed of natural streams, operate, particularly during spring thaws and heavy rains, as the only sufficient restraints, and constitute the only safe natural reservoirs for the impounding of waters, which otherwise, in vast volume, would flow directly and quickly into the beds of the streams and further down the channels, by overflow, carry destruction to vast areas of productive adjacent low lands. Some of our principal streams and their tributaries, which empty into the Gulf of Mexico, have their sources in the Rocky Mountains. For many years it has been the established policy of the federal government, beginning with the settlement of the states carved out of the great northwest territory, including Iowa, to dispose of its agricultural lands to actual settlers at a small price and to make easy the acquisition of timber and mineral lands, all with the view to encourage immigration and promote the development of the latent resources of those regions. While title to public lands remains in the national government, they are not subject to taxation, and when large areas are withheld from entry and sale it means a heavy loss of local revenue. So pronounced was this policy of federal aid to local development, and so generally approved was it by the entire country, that large land grants, from time to time, have been made by congress to railroad corporations, as a bonus for building their roads through the new West, and such enterprises constituted the chief agency in the development of the country through which they were built, and the inciting cause of an influx of population. Under this national policy, the newer western states

were settled. Their citizens, attracted by the liberal methods of the government—the original owner of the lands—made their homes and invested millions of dollars in lands and mines and water rights on the faith of the continuation of this policy. The eastern and southern states never owned, as original proprietors, public lands; at least, the federal government was not a land owner therein. After stripping their own lands of the original growth of timber and selling it, these sections began to realize their folly, when the great losses from unrestrained waters devastated their homes. They are now united in the determination to bring about further radical changes in former and present laws relating to the natural resources of the country, against most emphatic objections by the public land states.

With no pretense of fully presenting the nature and extent of the dispute over this great policy, it is sufficiently exact and comprehensive for the present purpose to say that the majority of conservationists ask that mineral lands be not sold at all, and, at best, that they shall be leased on royalties and the output limited; that agricultural lands be advanced in price, and that restrictions, rather than facilities for their disposition, be enacted; that the waterpower of the natural streams be vested in, and its use controlled by, the federal government, and, what is particularly obnoxious to many of the western people, that large and more forest reserves be established, to include not merely timber lands, but lands naturally agricultural and grazing, to the end that all existing timber be retained and large areas devoted to reforestation, and that a tax, or license fee, be required of those using grazing or pasturage lands.

Pause for a moment to see what shifting of position these opposing sections of our common country exhibit in order to accomplish their antagonistic purpose. East and South are naturally conservative, satisfied to have existing institutions, customs and laws stand. The South always was a stickler for states' rights, while the East is of the same mind so far as concerns this question of conservation out west. The West has usually been more radical. Changes in policies and methods, as such, have no terror, and experiments in constitutions, laws, and institutions have a peculiar fascination for it. Now, mark the change of base: in order to protect their own property interests from ever

impending destruction, the East and South, conservative to a degree, want radical changes in our federal laws to conserve the natural resources, not of their own, but of the newer western states, while they reserve for their own control the protection of their own natural resources. They ask the federal government to assume and exercise exclusive jurisdiction over the natural resources of the newer states. The West, radical and aggressive, if not progressive, insists that the existing laws—not department regulations—pertaining to natural resources be observed as congress meant them to be enforced, not as a government bureau, in the shifting of public opinion, thinks they should be applied. But, if not that, then that the laws be made more liberal towards the states. And, notwithstanding the fact that in our awful civil war, the West stood with the East in resisting the encroachments of states' rights, it now demands that all government lands and natural resources claimed by the nation, or rather by executive bureaus, in the public land states, be conveyed, or relinquished, and turned over to the respective states, so that the latter may work out their own salvation without interference by any other sovereignty.

It is not material just now which of these opposing forces is right as to methods, or which should prevail, or which has the legal right of the argument. In the main, both sides are honest and patriotic. The older states want immediate protection of their property rights, which will also be for the ultimate good of the nation as a whole. The newer states say that less radical, and more salutary measures can be devised to this end, which will not materially injure them; whereas the proposed methods, if enforced, will not merely retard their development, but so materially decrease the value of the permanent investments of their citizens as practically to amount to confiscation of their property and to acquisition without due process of law, and cause their people, who can get away, to remove to fairer climes.

Were it not that so satisfactory to you has been the final decision, it might be indelicate, and of questionable taste, on this occasion, to refer to it, as another similar display of at least a tendency to intolerance, there might be cited the recent controversy concerning the proposal of the managing board of Iowa's educational institutions to shift from one to the others some of

its existing departments. It will hardly be contended by the partisans of either side that the proposal was, at every stage, discussed by its advocates and opponents in that choice spirit of fairness and brotherly love which the cultured friends of higher education should exhibit as a model for those of limited educational advantages. But the case of conservation is quite enough for our purpose, as, in a most striking way, it affords an example of radical shifting of position and undue zeal by controversialists upon an economic question of vital importance, each side radical on some phases and conservative on others, of the same general question, apparently moved to such inconsistent fundamental attitude by the powerful influence of self interest.

Still, that is not the only point I wish to emphasize. If, in our entire political history, any controversy, save perhaps that over slavery, was ever more bitterly waged than this one over conservation, my attention has not been called to it; and if any greater intolerance, by both its advocates and opponents, was ever displayed, a somewhat extensive search fails to reveal it.

If Shakespeare could say of the reward which Republics are said to bestow upon faithful servants, "Ingratitude, thou marble hearted fiend," it must be left to the imagination to conceive what he might have said of intolerance. Its habitual employment is evidence of a narrow mind. It is the offspring of an ungenerous spirit. It is the weapon of ignorance, though frequently borrowed by religion, culture and learning to further their unworthy schemes. Yielding to its seductive spell exacts as a penalty loss of self respect, and arouses the undying hatred of its victim. It may, temporarily and apparently, justify itself as a weapon in warfare on iniquity, or in instituting needed reform; but, generally speaking, its indulgence is attended by a train of evil consequences which makes the end sought hardly worth the price paid; while more frequently it brings ignominious failure instead of signal success.

So pronounced was this trait of character exhibited in matters of religion in earlier times that we usually think of it in that connection. But it is not so confined. On the contrary, while the religious thought of the world is growing more liberal, and religious differences are being minimized, and religious essentials accentuated, political and governmental controversies are more

bitterly waged, and so constantly are they presented that it is in this field of thought and action that intolerance is now most conspicuously exhibited. A good man abhors vice in all its forms, denounces what corrupts good manners, destroys virtue, and degrades public morals. Yet in this there is no intolerance. It is a misuse of words to say so. But, if the lack of patience which a good man shows towards his fellow, whose opinions and practices are necessarily or inherently vicious, can be said to partake of intolerance, then I am inclined to treat it as I would the pardonable righteous indignation which normal persons visit upon flagrantly indecent acts. The intolerance which I deery is the arrogant refusal to give due respect to the different views and opinions of others, and the tolerance for which I plead is the willingness to accord to others, whose opinions and methods and policies are different from ours, the same privilege which we claim for ourselves.

If I have even measurably succeeded in centering your thought on my chief purpose, the message I have to deliver is so obvious that the application may well be left to you. Just reflect for a moment upon the unseemly wrangle which for years has been going on concerning a policy which the vast majority thoroughly believe is vital to the welfare of the race, and essential to the perpetuity of our existence as a nation. Both sides are in accord as to the policy itself. They agree that our natural resources should be conserved; but differ as to the methods and agencies by which the conservation shall be effected and the place of its application. Governor Hadley in a recent address tersely put the thought as to governmental matters when he said, in substance, that our people have been quibbling over immaterial methods, while they ought to have been fashioning fundamental policies. The East and the South are undoubtedly patriotic; and I may be permitted to vouch for the West. Sectional strife is always dangerous and usually illiberal. The fact that no public lands lie in the East and the South, that their forests have been removed and that their owners have reaped rich rewards therefor, that their own resources are claimed by them as their exclusive property and that their accidental location is such that irreparable loss is suffered by them from the overflow of natural streams, may give color to the charge of the West that possibly

their new born zeal for conservation of the natural resources of the West, and at its expense, by the federal government is measureably intensified by a direct pecuniary interest. The fact that the public lands lie wholly in the western states, that settlers there want and need the timber in making their homes and improving their lands; that withdrawal into forest reserves of vast areas of agricultural lands retards development and deprives the states of revenue; that the water power of natural streams will be a source of great profit to the sovereignty that controls it, may serve to suggest to the "benighted people of the effete East and South" that possibly pecuniary interest may have something to do with the West's approval of state control of its own public utilities. Suppose it is true that self-interest and accidental location are persuasive factors in the attitude of these warring sections. They are all patriotic. They love themselves; but they love their common country of which they are component parts. There is no basis for the charge that selfish considerations alone control their thought and action and purpose. The West may honestly believe that the reasonable private use of standing timber will not materially injure the country, or appreciably lessen the value of what remains as a restraining force to impetuous waters: It may also be right, as well as honest, in contending for absolute state ownership and control, rather than federal supervision. On the other hand, the older regions may be right and honest in asserting the contrary on all these questions. The point is that nothing is gained for either side by intolerantly refusing to recognize and concede that the other side is, or may be just as honest and intelligent and patriotic. Indeed, not only is nothing gained, but a satisfactory and honest and fair adjustment is jeopardized by the barbarity and ferocity of the dispute. In this bitter contest between the sections, the new West recognizes the great preponderance in wealth and population and political influence of the states in which are found the leaders of the propaganda. And the East is not at all oblivious of these advantages. One would naturally think that, as matter of policy, the West might improve its position by moral suasion and that the older sections might not crucify their weaker members merely because they possess the power to do so. But, up to the present time, there are not many auspicious signs of that sisterly

love and unselfishness which should animate the members of one political family. It is usually true respecting any great national, economic or political policy, that sectional strife enters and all legislation on such questions is the result of compromise. It is well that they should be discussed from all possible angles and they usually are. I cannot believe that any great body of citizens in any part of our country knowingly intend to inflict any great needless loss on any portion of their fellow citizens. No legislation bears equally upon all sections. That is as impossible as the realization of the dream of the publicist of an absolutely equitable and uniform system of taxation. The best that can be done, as was said by our great Iowa judge of the federal supreme court, Samuel F. Miller, is the nearest possible approximation to equality and justice.

Preachments are relished by some minds whose eyes are turned towards the setting sun; but by college boys and girls they are not often welcomed. They are rarely effective, and never entirely absorbed. The years that have passed since I sat where you do now have not blotted out recollection of the fierce resentment which compulsory attendance upon them engendered, due in part possibly to a pricking consciousness that they were timely, with a corresponding sense that they were needed. And yet, even in the presence of the most critical of audiences, and at the risk of a plausible charge of yielding to the universal weakness, I am emboldened to sound warning to the young men and women of my university to avoid, as a pestilence, the mental attitude of intolerance. Rather let me appeal to your intelligence to exemplify, in all your relations, that Christian spirit of tolerance, which will dignify your own lives and sweeten the lives of others.

It may be one of those glittering generalities which the undergraduate quickly detects and ruthlessly punctures, for he so often hears it at Commencement, that upon the educated and cultured the responsibilities of life ought to rest with especial weight. Though not of the same species, it is not so very unlike that other saying, "The youth of today is the parent of tomorrow." If both are true, as I have no doubt they are, the tinsel and glitter with which their announcement is often attended should not obscure or weaken the force of the truth that is wrapped up in them.

I know something of the trepidation that comes to one as he enters upon the real work of life. I would be slow to strike the note of pessimism or magnify the obstacles to your success, or have you other than optimists at the very beginning of your career; but it would be cowardly to attempt to conceal the fact, and harmful not to say, that the inexperience of youth is responsible for many of its failures.

Youth comes but once and its glorious enthusiasms and hopeful outlook ought to be enjoyed while they last. Youth is so beautiful strong, so brave in action, so self-reliant, so full of possibilities, so confident in itself, that it may easily slip into arrogance and thence into bigotry. The arrogance of youth, like the insolence of age, is a fertile theme for the paragrapher. Both are not altogether without excuse, though neither constitutes a desirable or popular element of character. Every truthful man will readily admit that he is not so cock sure of many things at fifty or sixty as he was at twenty or thirty years of age. The very enthusiasm of youth, while one of its glories, is one of its dangers. Its opinions are quickly formed, sometimes without sufficient investigation. Many conclusions which once brooked no criticism are often revised, occasionally reversed. It is only too apparent that intolerance is not infrequently the result of that feeling of absolute certainty which makes opposition assume the guise of arrant nonsense.

In the consciousness of your splendid powers, in the full flush of vigorous youth, with minds alert and spirits undaunted, do not suffer yourselves to forget that some of your fellow travelers are likewise gifted. Strong, forceful men and women can afford to be tolerant of opposing views, and of those who entertain them. Not alone is the contest among men for supremacy fierce and strenuous. Many a choice spirit goes down to defeat in the struggle for mere existence, in the fight for a modest livelihood. The human mind is a marvelous thing. It is difficult to account for its many vagaries. Just why so many people entertain views so radically different from ours, may seem passing strange; but as our journey lengthens we discover, alas! that their number increases. We ought not to be too severe in our judgment of the failures of life, or become embittered because our own cherished opinions are so lightly regarded by others. You will soon be

leaders in your respective communities, and some of you in wider fields. Perhaps it has always been so, yet it is very evident that this old world of ours is now in a pretty active state of ferment. Never, in the history of the race, in the various departments of thought and achievement, have more important problems been up for solution than just now. Those who have been preparing for it, will find tasks equal to their powers. Phillips Brooks prayed, not for tasks equal to his powers, but for powers equal to his tasks. As reasonably sane and virtuous youth, you will doubtless find abundant opportunity for cultivating the greatest tolerance of some of the most amazing theories and some of the most startling opinions, on a great variety of subjects, that ever confronted citizens of a free republic. I have such abiding confidence in the educated men and women of my country, and such faith in their compelling influence, that no fear of its immediate decline and fall disturbs me. And, while conscious of the dangers that ever confront a democracy or republic, I feel that a mutually tolerant attitude of the cultivated citizens of our great nation will do much to overcome those dangers, and so enable it to fulfill the beneficent destiny which the marvelous wisdom and lofty patriotism of its founders planned for it in the greatest charter of rights and liberties that the mind of man ever conceived.

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